

The Office has asked the applicants to provide an abstract on a separate sheet. The applicants respectfully submit that this request is improper under MPEP § 1893.03(e). According to procedure, the Office is to rely on the abstract which is printed on the cover of the PCT pamphlet. The applicants respectfully point out that such an abstract is clearly present on the cover page of the instant application.

The Office also objects to the form of the instant Specification. The applicants acknowledge the Office exposition of USPTO patent procedure and will, in the future, strive to conform with this Office preference.

The Office rejects the instant claims under 35 USC § 112, second paragraph, for indefiniteness. The claims are rejected for the use of the phrases "so designed" and "so designed to exhibit." With the instant Amendment, these phrases have been deleted from the claims. The Office comments that the term "brush" should be replaced with "toothbrush" for clarity and consistency. The claims have been so amended. Claims 23 and 34 are rejected based on the phrase "in each position of stable equilibrium" because Claim 20 encompasses the possibility that there be only one position of stable equilibrium. The claims have been amended to replace "in each position of stable equilibrium" with "in one or more positions of stable equilibrium." New Claims 39 and 40 are added to better encompass the scope of the claimed invention. Support for these new claims can be found in the original claims. Claim 36 is rejected as an improper claim and has been cancelled. Thus, reconsideration and withdrawal of these rejections are respectfully requested.

Claims 20-26, 28, and 30-38 are rejected under 35 USC § 102(a) as being anticipated by Cano (U.S. Patent No. 5,860,190). Cano discloses an expanded

implement handle grip which may include optional features which allow the expanded implement handle to have improved function. Cano does not disclose a toothbrush having the features of the instantly claimed invention.

It is the position of the Office that Cano teaches various embodiments of a toothbrush (Figs. 5, 8, 9, 10, or 12) of elongate form, comprising bristles wherein on a flat horizontal support, there is at least one position of stable equilibrium in which the longitudinal direction of the brush is essentially parallel to the support and the bristles lie at a distance from the support and extend towards the support (if a user orients the bristles in this downwards direction). In the instantly claimed invention, the bristles are oriented toward the support without any action of a user. This downward orientation of the bristles actually characterizes the stable position(s) of equilibrium.

Moreover, with regard to the embodiments disclosed in the above-mentioned figures, the applicants submit that these figures do not disclose a toothbrush. Fig. 5 shows a spoon and a grip associated thereto. When the grip lies on the support as represented in Fig. 5, with the longitudinal direction of the spoon essentially parallel to the support, it may roll. Thus, it can have an infinity of positions which are not stable positions of equilibrium.

Figs. 8, 9, and 10 all disclose "implements" to be associated with the grip. The embodiment of Fig. 8 has flat sides to contact the support which define a stable position of equilibrium in which the implement is parallel to the support. Cano discloses nothing about the position of the bristles in this position. The embodiments of Figs. 9 and 10 have several positions of stable equilibrium due to the associated roll-inhibiting features; however, Cano discloses nothing about the bristles in any of these positions.

Fig. 12 discloses a spoon and a grip associated thereto, not a toothbrush. As in Fig. 8, this embodiment has flat sides to contact the support but discloses nothing about the position of the bristles. The applicants submit that Cano does not anticipate the instantly claimed invention.

Finally, it is noted that Cano discloses a "grip" which is to be applied to an implement handle. Thus, the instant claims directed to a toothbrush handle are not anticipated or made obvious by the disclosure of an attachment which is to be applied to an implement.

Claims 20, 22-25, 27, 31, 32, and 34-36 are rejected under 35 USC § 102(b) as being anticipated by Switzerland 180027. Switzerland 180027 discloses a toothbrush of elongate form wherein on a flat horizontal support there are several positions of equilibrium. It is the position of the Office that Claim 20 "is unclear as to whether positions of stable equilibrium actually require the bristles to extend towards the support". With the instant Amendment, the applicants amend Claim 20 to clarify that the only positions of stable equilibrium are those in which the bristles extend toward the support. It is the position of the Office that Switzerland 180027 teaches a toothbrush of elongate form, comprising bristles wherein on a flat horizontal support there is at least one position of stable equilibrium (Fig. 2) in which the longitudinal direction of the brush is essentially parallel to the support and the bristles lie at a distance from the support and extend towards the support. The Office also notes that Switzerland 180027 shows another position of stable equilibrium with the bristles pointing upwards or away from the support (Fig. 1). The reference also shows two additional positions of stable equilibrium in which the bristles extend to the left or to the right (Fig. 3). Thus, the applicants submit that Switzerland 180027 does not anticipate the instant invention.

Claims 20-24, 29-32, and 36-38 are rejected under 35 USC 103(a) for obviousness based on Lodato (U.S. Patent No. 5,956,796) in view of Switzerland 180027. Lodato discloses a toothbrush which has only one position of stable equilibrium. In the position of stable equilibrium disclosed in Lodato, the bristles extend opposite to the support. The toothbrush disclosed in Lodato teaches away from the instant invention in that it describes the invention as addressing the concern of potential contamination by providing "a self-righting toothbrush that locates the head of the toothbrush (i.e. the portion of the toothbrush with bristles) away from the flat surface upon which the toothbrush rests." The instant invention provides a toothbrush to enhance hygiene (i.e., addressing the concern of potential contamination) by providing a toothbrush in which the only position(s) of stable equilibrium is/are position(s) where the bristles extend toward the support when the brush rests on a support. Switzerland 180027 discloses four different positions of stable equilibrium. The Office has provided no teaching for the motivation to combine these two references. The applicants submit that absent such teaching, the *prima facie* argument for obviousness is not made. Reconsideration and withdrawal of the obviousness rejection are respectfully requested.

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Accordingly, entry of the present amendment, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned attorney has made an earnest effort to place this application into condition for immediate allowance. If he can be of assistance to the Examiner in the elimination of any possibly-outstanding

insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call him at his below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,
THE FIRM OF HUESCHEN AND SAGE

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Enclosure: Listing of Claims; Fee for three (3) month extension; and Postal
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